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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,578	03/08/2002	Tsung Ming Ou	USDP1531T-TB	2823
30265	7590	05/27/2005	EXAMINER	
RAYMOND Y. CHAN 108 N. YNEZ AVE., SUITE 128 MONTEREY PARK, CA 91754			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/092,578

Applicant(s)

OU, TSUNG MING

Examiner

Steven Wong

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-8 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 3-8 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kralik (4,660,831) in view of Ou (5,759,123). Note the basis for the rejections set forth in the Office Action mailed October 6, 2004. Regarding the added limitation for the liner piece to be compressed and vulcanized, this limitation is taught by the reference to Ou. Ou provides a rubber layer and fabric lining layer which are compressed and vulcanized together (note column 3, lines 21-54). Regarding the added limitation for the rubber piece and fabric lining to be of the same shape and size, Ou also teaches this limitation (see steps a and b, column 3, lines 24-29).

***Response to Arguments***

3. Applicant's arguments filed February 10, 2005 have been fully considered but are not deemed to be persuasive. The applicant argues that Kralik never calls the middle layer (26) a sheet material and also, the specifications of Kralike and Ou do not mention "construction", "vulcanization" or "rubber material". However, this is not persuasive as first, attention is drawn to column 3, lines 14-17 of Kralik stating that the control layer (26) is a sheet material. Second, column 3, lines 21-54 of Ou (5,759,123) clearly describe the use of a rubber material that is cut and compressed and vulcanized with a fabric pad. This is clearly a construction.

Regarding the applicant's argument that Kralik lacks a suggestion to modify as proposed by the examiner, attention is directed to column 3, lines 38-42 of Kralik stating that other assemblies for the liner could also be used. Clearly, this a suggestion to one of ordinary skill in

Art Unit: 3711

the art to utilize other materials in order to take advantage of those other materials' well known physical properties.

Regarding the applicant's argument that the construction liner of the instant invention is a liner piece but not a panel, the instant claims or specification fail to differentiate between these two terms. Further, the instant claims fail to define any structure that would differentiate the liner (as defined by applicant) from the panel of Ou (5,759,123). Thus, the instant claims fail to recite any limitations which would lead one of ordinary skill in the art to distinguish the lining layer of the instant claims from the panel layer of Ou (5,759,123). It is noted that by "construction liner" as recited in the preamble of the instant claims, one of ordinary skill in the art could clearly interpret it to mean that the inner surface of the member lines the ball while the outer surface is the outer covering of the ball. Clearly, the limitation can be fairly interpreted to include the panel as taught by Ou (5,759,123).

Regarding the applicant's argument that Kralik does not teach a construction liner that is compressed and vulcanized, the rejection is over the combination of Kralik in view of Ou (5,759,123) where Ou clearly teaches using compression and vulcanization to integrally form the liner piece.

Regarding the applicant's statement that Ou (5,759,123) does not teach a construction liner sewn edge to edge with a leather made cover skin, while this may be true, the instant claims fail to recite this structure. The instant claims merely recite the construction liner which is taught by the combination of Kralik in view of Ou as set forth above.

Regarding the applicant's argument that the rejection is unfair to applicant, this argument is not persuasive as it does not change the fact that the instant claims are rendered obvious by the combination of Kralik in view of Ou.

Regarding the applicant's statement on commercial success, first, as noted in the previous Office Action, the Rule 132 Declaration was not actually received by the Patent Office and made of record. The examiner's statements were subjective and based upon his own conjecture as to what the Declaration would include. Secondly, while it is permissible for an applicant to receive multiple patents on a single conception of an invention, this is not the question at stake. Here, the applicant is attempting to overcome a non-obviousness rejection of a particular embodiment by demonstrating its commercial success. In order show this commercial success, it is incumbent upon the applicant to demonstrate that the commercial success is achieved by the particular embodiment which applicant is attempting to receive the patent and none of the features that were already patented.

#### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

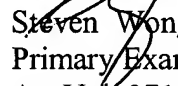
Art Unit: 3711

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
May 23, 2005